

ASSEMBLY BILL

No. 679

Introduced by Assembly Member Allen

February 17, 2011

An act to amend Section 65584.07 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 679, as introduced, Allen. Land use: housing element.

The Planning and Zoning Law requires a city or county to prepare and adopt a comprehensive, long-term general plan, and requires the general plan to include specified, mandatory elements, including a housing element. That law requires the housing element, in turn, to contain, among other items, an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of those needs.

That law requires, for purposes of that assessment and inventory, the city's or county's share of the regional housing need to include that share of the housing need of persons at all income levels within the city or county. That law also requires the Department of Housing and Community Development, in consultation with each council of governments, to determine each region's existing and projected housing need, as specified, and the appropriate council of governments, or for cities and counties without a council of governments, the department, to adopt a final regional housing need plan that allocates a share of the regional housing need to each city and county, as specified.

That law further requires the council of governments, or department, whichever assigned a county's share of regional housing needs, to reduce the county's share if specified conditions relating to the transfer

of shares are met, including the condition that the county's share of low-income and very low income housing only be reduced in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

This bill would provide that, with respect to that condition, in the case of a transfer in which a county provides funding for affordable housing construction within a city, that transfer does not have to be proportional across income categories, but may reflect the specific affordability of units that are being funded.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65584.07 of the Government Code is
2 amended to read:

3 65584.07. (a) During the period between adoption of a final
4 regional housing needs allocation and the due date of the housing
5 element update under Section 65588, the council of governments,
6 or the department, whichever assigned the county's share, shall
7 reduce the share of regional housing needs of a county if all of the
8 following conditions are met:

9 (1) One or more cities within the county agree to increase its
10 share or their shares in an amount equivalent to the reduction.

11 (2) The transfer of shares shall only occur between a county
12 and cities within that county.

13 (3) The county's share of low-income and very low income
14 housing shall be reduced only in proportion to the amount by which
15 the county's share of moderate- and above moderate-income
16 housing is reduced. *However, in the case of a transfer in which a*
17 *county provides funding for affordable housing construction within*
18 *a city, that transfer does not have to be proportional across income*
19 *categories, but may reflect the specific affordability of units that*
20 *are being funded.*

21 (4) The council of governments or the department, whichever
22 assigned the county's share, shall approve the proposed reduction,
23 if it determines that the conditions set forth in paragraphs (1), (2),
24 and (3) above have been satisfied. The county and city or cities
25 proposing the transfer shall submit an analysis of the factors and
26 circumstances, with all supporting data, justifying the revision to

1 the council of governments or the department. The council of
2 governments shall submit a copy of its decision regarding the
3 proposed reduction to the department.

4 (b) (1) The county and cities that have executed transfers of
5 regional housing needs pursuant to subdivision (a) shall use the
6 revised regional housing need allocation in their housing elements
7 and shall adopt their housing elements by the deadlines set forth
8 in Section 65588.

9 (2) A city that has received a transfer of a regional housing need
10 pursuant to subdivision (c) shall adopt or amend its housing
11 element within 30 months of the effective date of incorporation.

12 (3) A county or city that has received a transfer of regional
13 housing need pursuant to subdivision (d) shall amend its housing
14 element within 180 days of the effective date of the transfer.

15 (4) A county or city is responsible for identifying sites to
16 accommodate its revised regional housing need by the deadlines
17 set forth in paragraphs (1), (2), and (3).

18 (5) All materials and data used to justify any revision shall be
19 made available upon request to any interested party within seven
20 days upon payment of reasonable costs of reproduction unless the
21 costs are waived due to economic hardship. A fee may be charged
22 to interested parties for any additional costs caused by the
23 amendments made to former subdivision (c) of Section 65584 that
24 reduced from 45 to 7 days the time within which materials and
25 data were required to be made available to interested parties.

26 (c) (1) If an incorporation of a new city occurs after the council
27 of governments, subregional entity, or the department for areas
28 with no council of governments, has made its final allocation under
29 Section 65584.03, 65584.04, 65584.06, or 65584.08, a portion of
30 the county's allocation shall be transferred to the new city. The
31 city and county may reach a mutually acceptable agreement for
32 transfer of a portion of the county's allocation to the city, which
33 shall be accepted by the council of governments, subregional entity,
34 or the department, whichever allocated the county's share. If the
35 affected parties cannot reach a mutually acceptable agreement,
36 then either party may submit a written request to the council of
37 governments, subregional entity, or to the department for areas
38 with no council of governments, to consider the facts, data, and
39 methodology presented by both parties and determine the number

1 of units, by income category, that should be transferred from the
2 county's allocation to the new city.

3 (2) Within 90 days after the date of incorporation, either the
4 transfer, by income category, agreed upon by the city and county,
5 or a written request for a transfer, shall be submitted to the council
6 of governments, subregional entity, or to the department, whichever
7 allocated the county's share. A mutually acceptable transfer
8 agreement shall be effective immediately upon receipt by the
9 council of governments, the subregional entity, or the department.
10 A copy of a written transfer request submitted to the council of
11 governments shall be submitted to the department. The council of
12 governments, subregional entity, or the department, whichever
13 allocated the county's share, shall make the transfer effective within
14 180 days after receipt of the written request. If the council of
15 governments allocated the county's share, the transfer shall be
16 based on the methodology adopted pursuant to Section 65584.04
17 or 65584.08. If the subregional entity allocated the subregion's
18 share, the transfer shall be based on the methodology adopted
19 pursuant to Section 65584.03. If the department allocated the
20 county's share, the transfer shall be based on the considerations
21 specified in Section 65584.06. The transfer shall neither reduce
22 the total regional housing needs nor change the regional housing
23 needs allocated to other cities by the council of governments,
24 subregional entity, or the department. A copy of the transfer
25 finalized by the council of governments or subregional entity shall
26 be submitted to the department. The council of governments, the
27 subregional entity, or the department, as appropriate, may extend
28 the 90-day deadline if it determines an extension is consistent with
29 the objectives of this article.

30 (d) (1) If an annexation of unincorporated land to a city occurs
31 after the council of governments, subregional entity, or the
32 department for areas with no council of governments, has made
33 its final allocation under Section 65584.03, 65584.04, 65584.06,
34 or 65584.08, a portion of the county's allocation may be transferred
35 to the city. The city and county may reach a mutually acceptable
36 agreement for transfer of a portion of the county's allocation to
37 the city, which shall be accepted by the council of governments,
38 subregional entity, or the department, whichever allocated the
39 county's share. If the affected parties cannot reach a mutually
40 acceptable agreement, then either party may submit a written

1 request to the council of governments, subregional entity, or to the
2 department for areas with no council of governments, to consider
3 the facts, data, and methodology presented by both parties and
4 determine the number of units, by income category, that should
5 be transferred from the county's allocation to the city.

6 (2) (A) Except as provided under subparagraph (B), within 90
7 days after the date of annexation, either the transfer, by income
8 category, agreed upon by the city and county, or a written request
9 for a transfer, shall be submitted to the council of governments,
10 subregional entity, and to the department. A mutually acceptable
11 transfer agreement shall be effective immediately upon receipt by
12 the council of governments, the subregional entity, or the
13 department. The council of governments, subregional entity, or
14 the department for areas with no council of governments, shall
15 make the transfer effective within 180 days after receipt of the
16 written request. If the council of governments allocated the
17 county's share, the transfer shall be based on the methodology
18 adopted pursuant to Section 65584.04 or 65584.08. If the
19 subregional entity allocated the subregion's share, the transfer
20 shall be based on the methodology adopted pursuant to Section
21 65584.03. If the department allocated the county's share, the
22 transfer shall be based on the considerations specified in Section
23 65584.06. The transfer shall neither reduce the total regional
24 housing needs nor change the regional housing needs allocated to
25 other cities by the council of governments, subregional entity, or
26 the department for areas with no council of governments. A copy
27 of the transfer finalized by the council of governments or
28 subregional entity shall be submitted to the department. The council
29 of governments, the subregional entity, or the department, as
30 appropriate, may extend the 90-day deadline if it determines an
31 extension is consistent with the objectives of this article.

32 (B) If the annexed land is subject to a development agreement
33 authorized under subdivision (b) of Section 65865 that was entered
34 into by a city and a landowner prior to January 1, 2008, the revised
35 determination shall be based upon the number of units allowed by
36 the development agreement.

37 (3) A transfer shall not be made when the council of
38 governments or the department, as applicable, confirms that the

- 1 annexed land was fully incorporated into the methodology used
- 2 to allocate the city's share of the regional housing needs.

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